



United States Attorney
Southern District of New York

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September 15, 2017

Via ECF and Facsimile

Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Washington et al. v. Sessions et al.*, 17 Civ. 5625 (AKH)

Dear Judge Hellerstein:

This Office represents the defendants, the United States of America, the Attorney General of the United States, the Administrator of the Drug Enforcement Administration, the U.S. Department of Justice, and the U.S. Drug Enforcement Administration (collectively, “Defendants”), in this challenge to the constitutionality of the regulation of marijuana under the Controlled Substances Act. Defendants write briefly in response to Plaintiffs’ letter dated September 14, 2017, Dkt. No. 30.

Defendants submitted their request that the Court reconsider its scheduling determinations, Dkt. No. 27, as a letter only in the interest of placing their request before the Court in timely fashion, given the Court’s direction that a joint discovery letter be filed on September 11. If the Court deems it more appropriate, Defendants would gladly resubmit the reconsideration request as a noticed motion for reconsideration, as Plaintiffs suggest would have been the proper course.¹

Defendants do not seek to oblige Plaintiffs’ counsel to respond to the request for reconsideration in any constrained timeframe. As we noted in our reconsideration request, Dkt. No. 27 at 1 n.2, we have no objection to permitting Plaintiffs any reasonable amount of time necessary to respond, including and exceeding the full period permitted for oppositions to motions pursuant to Local Rule 6.1(b), if Plaintiffs reasonably require such a period.

While Defendants regret the necessity of submitting a separate letter regarding the parties’ discovery dispute yesterday, we did so only because Plaintiffs had been unwilling to “describe their disputes in a single letter, *jointly composed*,” pursuant to section 2.E of Your Honor’s rules (emphasis added). Instead, as noted, they provided only their draft schedule,

¹ Inconsistently, Plaintiffs also argue that Defendants’ request for reconsideration should have been filed as a “joint letter.” Dkt. No. 30. However, Defendants understand section 2.E of Your Honor’s rules to provide for joint letters to resolve disputes between counsel, and not for requests for reconsideration of a prior determination of the Court.

which comprises approximately one page of their seven-page letter. Then, Plaintiffs provided no information as to the status of the supposedly “joint” letter when their proposed deadline had passed, and failed to respond to an e-mailed request for an update until after their letter had been filed with the Court.²

Thank you for your consideration of this letter.

Respectfully submitted,

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Attorney for the Defendants

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² As it relates to this and other disputes raised by Plaintiffs, if it would be helpful to the Court, Defendants would be pleased to provide the full record of the e-mail communications between counsel, as opposed to the excerpted selections attached to Plaintiffs’ letter.